



The Competitive Carriers Association

Rural Cellular Association

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July 28, 2011

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: CC Docket No. 01-92
WC Docket No. 10-90
WC Docket No. 07-135
WC Docket No. 05-337
GN Docket No. 09-51**

Dear Ms. Dortch:

On July 26, 2011, Steven K. Berry, Tim Donovan, and In-Sung Yoo of the Rural Cellular Association (RCA); Frank DiRico, Mike Felicissimo and Andrew R. Newell of Viaero Wireless; Eric Woody of Union Wireless; Larry Lueck of Nsight; Ed King of Cellular Properties (dba Cellular One of East Central Illinois); Julia Tanner of MTPCS, LLC d/b/a Cellular One; Gwen Donaldson, representative for Nex-Tech Wireless, LLC; Matthew Brill of Latham & Watkins, counsel to RCA; and the undersigned held a meeting with Commissioner Copps' legal advisors Margaret McCarthy and Mark Stone. In a separate meeting, also on July 26, the above noted parties met with Christine Kurth, Policy Director & Wireless Counsel to Commissioner McDowell. Both meetings addressed the concerns of competitive carriers regarding reform of the Universal Service Fund (USF) and in particular, the possibility of a USTelecom Association (USTA) proposal that would threaten to relegate rural consumers to second-class citizenship by depriving them of access to the high-quality wireless services they clearly desire.

RCA reiterated its call for a single universal service fund that includes support for broadband but also embraces the principles of competitive and technological neutrality, and success-based, forward-looking funding. RCA supports the Commission's reform efforts, but believes that true reform should be based on forward-looking, market-driven policies. In light of the ever-increasing consumer preference for mobile broadband connectivity, universal service funding must be portable so that support would flow to those services that succeed in capturing customers in high-cost areas. In addition to consumer choice, portability will increase the efficiency of USF distributions by funding lower-cost alternatives.

RCA members provided examples of how wireline-centric reform proposals are upside down, protecting an antiquated technology at the expense of the cost-effective, consumer-preferred technology. According to the FCC's most recent Local Competition Report, wireline companies are

losing on average approximately 1 million subscribers each year.¹ One RCA member that operates both a wireless and wireline system said its wireline service loses on average five percent of its customers each year. These customers are migrating to wireless service. RCA noted that the only industry losing customers at a higher pace was the postal service.² If the FCC provides USF support for these wireline operations to prevent stranded investment, RCA members asked the legal advisors what happens when the customers strand the investment for them.

Wireless carriers also would incur stranded investment as a result of reforms proposed by the large ILECs. One RCA member informed Commission staff that the interim cap on CETC support forced the company to scale back its buildout plan from 18 sites to 12, and that that on-going operation of those sites without support likely would be infeasible. Another member pointed to information in the record that demonstrated how the uncertainty engendered by the interim cap was already affecting buildout of next-generation mobile technologies in their service area.³

RCA also called for the use of cost models for both wireline and wireless support, instead of reverse auctions. As previously argued, reverse auctions will not further the goals of competition and efficiency.⁴ Rather, they will entrench monopolies, encourage lackluster service and higher prices, slow build-out and favor larger carriers while potentially requiring increased government regulation.⁵ Cost models, on the other hand, offer a market-oriented, pro-competition path to effective reform.⁶

While RCA firmly believes that wireless should play a central role in the contemplated Connect American Fund (CAF), RCA understands that certain wireline carriers have proposed to relegate wireless to a separate fund. If the FCC is not inclined to support wireless as part of the CAF, but rather create a separate mobility fund for wireless, RCA emphasized that the overall allocation of support should be equitable, forward-looking, and responsive to consumers' demonstrated preference for mobile services. RCA suggested that allocating at least \$1.5 billion to wireless services, just *half* of the amount wireless carriers currently contribute to the fund, would be an appropriate amount to support current and future wireless technology. In addition, any new mobility fund should provide support for operating expenses, fund both 3G and 4G technologies, and use a cost model to determine support amounts instead of reverse auctions. Again, such a proposal

¹ Local Telephone Competition Report at 24 (Mar. 11, 2011).

² Nick Del Deo, *Going Postal*, BernsteinResearch at 3 (January 21, 2011).

³ See Letter from Todd Lantor, Counsel to Nex-Tech Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337; CC Docket No. 96-45; GN Docket No. 09-51; WC Docket No. 06-122; CC Docket No. 01-92 (filed December 8, 2011); see also Letter from David LaFuria, Counsel to MTPCS, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337; CC Docket No. 96-45; GN Docket No. 09-51; WC Docket No. 06-122; CC Docket No. 01-92 (filed July 25, 2011).

⁴ See Reply Comments of Rural Cellular Association, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, CC Docket No. 01-92, at 10-16 (filed May 23, 2011); Comments of Rural Cellular Association, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, CC Docket No. 01-92, at 17-19 (filed April 18, 2011).

⁵ Peter K. Pitsch, *Reforming Universal Service: Competitive Bidding or Consumer Choice* (Cato Inst. Briefing Paper No. 29, May 7, 1997), available at <http://www.cato.org/pubs/briefs/bp-029.html>.

⁶ See Letter from Grant B Spellmeyer, Senior Director – Legislative & Regulatory Affairs, US Cellular, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337; CC Docket No. 96-45; GN Docket No. 09-51; (filed May 27, 2011)

would be consistent with the current industry realities that clearly demonstrate the migration of consumers from landline-based services to next-generation mobile services. Ensuring at least \$1.5 billion in support for wireless services also would be fair and equitable in light of the fact that wireless carriers contribute two-thirds of total funding fund while currently collecting less than one-third. The Universal Service Fund was intended as a means of bringing critical services to the *consumer*, and not as a way to support private businesses themselves. RCA's proposal would fulfill the Congress' statutory intent of true universal service in a way that currently contemplated methods would not.

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

/s/

Rebecca M. Thompson
General Counsel

cc: Ms. Margaret McCarthy (via email)
Mr. Mark Stone (via email)
Ms. Christine Kurth (via email)